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09/315,621	05/20/1999	AJAY RAJKUMAR	5	6743

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EXAMINER

SINGH, RACHNA

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/315,621
Filing Date: May 20, 1999
Appellant(s): RAJKUMAR, AJAY

MAILED

MAR 20 2006

Technology Center 2100

Gary D. Yacura
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/21/05 appealing from the Office action mailed 05/23/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,466,258	MOGENIS et al.	10-2002
6,016,476	MAES et al.	01-2000

5,974,004	DOCKES et al.	10-1999
6,226,672	DeMartin et al.	05-2001
6,047,292	KELLY et al	04-2000
5,491,481	Akagiri	02-1996

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 13-17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mogenis et al., US Patent 6,466,258, 10/15/02 (filed 2/12/99) in view of Maes et al., US 6,016,476, 1/18/00 (filed 1/16/98).

In reference to amended claim 1, Mogenis discloses a method in which a customer contacts a 911 service in which audio information is received by a controller at a security center. When the controller receives data from the customer, the controller is connected to a data source with information about customer. Compare to ***"obtaining a client identifier during a client contact. . .accessing a record in a database using the client identifier"***. The controller can record and archive the audio information received via the communication into a database for playback at another time. The security center may include a recording or archiving database or memory, which automatically records the video, audio, and/or other sensor information arriving at center

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for later use by the responding emergency party, if required, or for evaluation. A playback arrangement 214 is illustrated as being coupled to memory 212 in figure 2. Please see figure 2, columns 3-4, and column 5, lines 1-15. Compare to ***“recording at least a portion of the client contact as the audio file. . .storing the audio file on a recording media. . .and linking the audio file to the record”***.

Claim 1 recites accessing a “financial” record in the database. Mogenis’ system is directed at accessing a record in a database using a client identifier and recording the client contact as an audio file. Regardless of the “type” of record disclosed by Mogenis, the features of the claimed invention are taught; however, the “financial” record is not explicitly stated. Maes teaches a system and method for recording consumer transactions by a financial institution. Part of the system includes providing a client PDA to the user comprising a microphone for processing voice commands. The user can speak into the microphone and the audio is processed and stored in the central server which is linked to the financial record of the financial institution. See abstract and columns 8-9. Maes teaches associating an audio file with a financial record in a database. A record in a database can comprise of a variety of types of information including that of financial information as shown by Maes’ system. A record is simply a complete set of information by definition. Since Mogenis teaches linking an audio file to a record in the database and it was well known in the art at the time of the invention for records to comprise a variety of “types of information” including financial information (as taught by Maes), it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the features of Maes and Mogenis to arrive at a system of

storing an audio file with a record in a database to correlate the audio file with a client recording because it retrieves information that is pertinent to the user id. Furthermore, Mogenis' system teaches a means for linking an audio file to a database record. While this may not be directed to a "financial" record, there is no reason why one of ordinary skill in the art would be limited to only one type of record. Mogenis' system could be applied to any type of record without interfering with the purpose of associating and storing an audio file to a record.

In reference to claim 2, Mogenis teaches archiving and recording the audio file and the record. A link is a pointer to another record. See figure 2 and column 5, lines 1-10.

In reference to claims 16 and 19, Mogenis teaches the use of an "archiving database" for recording the audio information. Thus Mogenis teaches storing the audio file on a system with one or more audio files. The rest of claims 16 and 19 are rejected under the same rationale used in claim 1 above.

In reference to claims 13 and 15, Mogenis discloses a method in which a customer contacts a 911 service in which audio information is received by a controller at a security center. When the controller receives data from the customer, the controller is connected to a data source with information about customer. Compare to **"the contact comprises a telephone call"**. The controller can record and archive the audio information received via the communication into a database for playback at another time. Compare to **"the recording step. . .over the telephone call."** See columns 3-5.

In reference to claim 14, Mogenis' system allows the security center to activate certain sources upon receipt of the phone call. See columns 3-4.

In reference to claim 17, Mogenis teaches a 911 recording system. It was well known in the art at the time of the invention to record time information upon receiving a 911 call. Time information includes date and time.

Claims 6, 8, 9, 11, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mogenis et al., US Patent 6,466,258, 10/15/02 (filed 2/12/99) in view of Maes et al., US 6,016,476, 1/18/00 (filed 1/16/98), as applied to claim 1 above, and further in view of Dockes et al., US Patent 5,974,004, 10/26/99 (filed 12/21/98, continuation filed 11/7/96).

In reference to claim 6, Mogenis/Maes do not teach storing the audio file on a recording media wherein the media is a CD-R. However, Dockes discloses storing the audio file on a blank CD-R. See column 2, lines 53-60. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Docke's teachings of storing an audio file on a CD-R in the system of Mogenis because it provides a means for long-term storage of an audio file.

In reference to claims 8, 18, and 20, Mogenis does not explicitly teach accessing a field in the record having a pointer to the audio file. Dockes discloses a method in which a field in the record is linked to an audio file and a writing means is provided for storing the audio on a recording media (compare to **"accessing a field in the record . . .the pointer identifies a location where the audio file is stored on the recording**

media”). See column 3, lines 14-19 and column 5, lines 1-6. Dockes further discloses a link between the physical disc (recording media) and the indexing data (in the database) which allows the user **“access the location on the recording media identified by the pointer.”** See column 8, lines 28-50. Dockes does not explicitly disclose a means of accessing the record in the database; however, Mogenis discloses accessing a database to play an audio file that has been archived. See columns 3-5. It would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate Docke’s method of identifying a location of an audio file on a recording media in a system such as Mogenis’ since it allows a user to identify the location of an audio recording that may be relevant to a specific client. Moreover, once the method for obtaining, linking, and storing a file has occurred, providing the user with the ability to access the database would have been obvious to one of ordinary skill in the art at the time of the invention in order to offer an efficient means to locate the relevant audio file.

In reference to claim 9, Dockes teaches a means of linking the audio data in digital format. See column 2, lines 42-60 and column 5, lines 1-6. It would have been obvious to one of ordinary skill in the art at the time of the invention to include Docke’s digital audio format as a means for recording the audio file since it was common to provide information in digital format in a computer.

In reference to claim 11, Mogenis does not teach storing the audio file on a recording media wherein the media is a CD-R. However, Dockes discloses storing the audio file on a blank CD-R. See column 2, lines 53-60. It would have been obvious to

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one of ordinary skill in the art at the time of the invention to incorporate Docke's teachings of storing an audio file on a CD-R in the system of Mogenis because it provides a means for long-term storage of an audio file.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mogenis et al., US Patent 6,466,258, 10/15/02 (filed 2/12/99) in view Maes et al., US 6,016,476, 1/18/00 (filed 1/16/98), as applied to claim 1 above, and further in view of Dockes et al., US Patent 5,974,004, 10/26/99 (filed 12/21/98, continuation filed 11/7/96) and DeMartin et al., US Patent 6,226,672, 5/1/01 (filed 5/2/97).

In reference to claim 3, Mogenis/Dockes teach a means of linking the audio data in digital format. Dockes teaches a means of linking the audio data in digital format. See column 2, lines 42-60 and column 5, lines 1-6. It would have been obvious to one of ordinary skill in the art at the time of the invention to include Docke's digital audio format as a means for recording the audio file since it was common to provide information in digital format in a computer. Mogenis does not teach storing the audio file on a recording media wherein the media is a CD-R. However, Dockes discloses storing the audio file on a blank CD-R. See column 2, lines 53-60. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Docke's teachings of storing an audio file on a CD-R in the system of Mogenis because it provides a means for long-term storage of an audio file. Once digitized, the audio file is stored on a recording media (such as CD) and is linked to a record in the database using a pointer. See column 2, lines 42-60 and column 5, lines 1-6. Dockes does not

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disclose storing the audio file in an analog format on an analog recording media; however, DeMartin teaches a database storing information for songs recorded on various data storage media (analog or digital). See column 3, lines 45-59. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate storing an audio file in analog format on an analog recording media as disclosed by DeMartin within Mogenis' and Dockes' system of linking an audio file in digitized form since audio files in digitized form are compressed.

In reference to claim 4, Dockes teaches a means of linking the audio data in digital format. Once digitized, the audio file is stored on a recording media (such as CD) and is linked to a record in the database using a pointer. See column 2, lines 42-60 and column 5, lines 1-6. Dockes does not disclose storing the digitized audio file within the field of a record; however, Mogenis teaches a record in a database consisting of both textual, graphical information and the associated audio information. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a digitized version of the audio file within the record since it was common at the time to include audio information within a record in a database. Dockes does not disclose storing the audio file in an analog format on an analog recording media; however, DeMartin teaches a database storing information for songs recorded on various data storage media (analog or digital). See column 3, lines 45-59. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate storing an audio file in analog format on an analog recording media as

disclosed by DeMartin within Dockes' system of linking an audio file in digitized form since audio files are compressed in digitized form.

Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mogenis et al., US Patent 6,466,258, 10/15/02 (filed 2/12/99) in view Maes et al., US 6,016,476, 1/18/00 (filed 1/16/98), as applied to claim 1 and 8 above, and further in view of Kelly et al., US Patent 6,047,292, 4/4/00 (filed 9/12/96).

In reference to claims 5 and 10, Mogenis/Maes do not teach storing the audio file on tape. Kelly teaches that it was common in the art at the time of the invention to store data on a cassette tape; however, with the storage capacity that a CD provides, the recording media is being shifted to that of CD-R. See column 1. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a tape as a recording media file since it was well known at the time to store audio data on a tape for long-term storage means.

Claims 7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mogenis et al., US Patent 6,466,258, 10/15/02 (filed 2/12/99) in view of Maes et al., US 6,016,476, 1/18/00 (filed 1/16/98), as applied to claims 1 and 8 above, and further in view of Akagiri, US Patent 5,491,481, 2/13/96.

In reference to claims 7 and 12, Mogenis and Dockes do not disclose storing the audio file on semiconductor memory; however, Akagiri teaches that semiconductor memories are used as recording media. See column 1, lines 61-67. It would have been

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obvious to one of ordinary skill in the art at the time the invention was made to incorporate Akagiri's disclosure of a semiconductor memory recording device in the system disclosed jointly by Mogenis/Maes since semiconductor memory allows for additional compression which would be useful in recording audio.

(10) Response to Argument

With regards to claims 1, 16, and 19, Appellant argues on page 9 of the Appeal Brief, Mogenis is silent as to how video and/or audio information is stored. Examiner respectfully disagrees. Examiner points to figure 2, columns 3-4, and column 5, lines 1-15 of Mogenis for these teachings. Mogenis discloses that the security center may include a recording or archiving database or memory, which automatically records the video, audio, and/or other sensor information arriving at center for later use by the responding emergency party, if required, or for evaluation. A playback arrangement 214 is illustrated as being coupled to memory 212 in figure 2. Thus Mogenis explicitly teaches recording and storing the audio information as an archiving database or memory is a means for storing an audio file. The claims recite the limitation "storing the audio file on a recording media" which is the same as "recording audio information in a database or memory where a playback arrangement is coupled to the memory". Furthermore, on the bottom of page 9 of the Appeal Brief, Appellant appears to admit this feature is taught by Mogenis when they state, "Mogenis refers to a recording/archival means. . .the recording/archival means could refer to an unsigned temporary file, a STORAGE storing data . . .".

Appellant further argues with respect to claims 1, 16, and 19, Mogenis does not teach “accessing a financial record in the database using a client identifier”. Examiner respectfully disagrees with Appellant’s assertion. Mogenis’ system is directed at accessing a record in a database using a client identifier and recording the client contact as an audio file. Regardless of the “type” of record disclosed by Mogenis, the features of the claimed invention are taught; however, the “financial” record is not explicitly stated. Maes teaches a system and method for recording consumer transactions by a financial institution. Part of the system includes providing a client PDA to the user comprising a microphone for processing voice commands. The user can speak into the microphone and the audio is processed and stored in the central server which is linked to the financial record of the financial institution. See abstract and columns 8-9. Maes teaches associating an audio file with a financial record in a database. A record in a database can comprise of a variety of types of information including that of financial information as shown by Maes’ system. A record is simply a complete set of information by definition. Since Mogenis teaches linking an audio file to a record in the database and it was well known in the art at the time of the invention for records to comprise a variety of “types of information” including financial information (as taught by Maes), it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the features of Maes and Mogenis to arrive at a system of storing an audio file with a record in a database to correlate the audio file with a client. Furthermore, Mogenis’ system teaches a means for linking an audio file to a database record. While this may not be directed to a “financial” record, there is no reason why

one of ordinary skill in the art would be limited to only one type of record. Mogenis' system could be applied to any type of record without interfering with the purpose of associating and storing an audio file to a record.

In response to applicant's argument that the teachings of Maes are used solely to accommodate disclosing a financial record and there is no motivation to combine Mogenis with Maes, Examiner points out that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963). Maes has been used to illustrate associating an audio file with a financial record in a database was well known in the art at the time of the invention. Furthermore, a record in a database can comprise of a variety of types of information including that of financial information as shown by Maes' system. *A record is simply a complete set of information by definition.*

Regarding Appellant's arguments pertaining to "using the client identifier". A client identifier could be a name, an address, any information used to identify a client. In Mogenis' system, when the controller receives data from the customer, the controller is connected to a data source with information about customer. See column 3, lines 10-27.

In response to Appellant's argument that the purposes of Mogenis and Maes are incompatible, Mogenis' system is directed at accessing a record in a database using a client identifier and recording the client contact as an audio file. Regardless of the "type" of record disclosed by Mogenis, the features of the claimed invention are taught; however, the "financial" record is not explicitly stated. Maes teaches a system and method for recording consumer transactions by a financial institution. Part of the system includes providing a client PDA to the user comprising a microphone for processing voice commands. The user can speak into the microphone and the audio is processed and stored in the central server which is linked to the financial record of the financial institution. See abstract and columns 8-9. Maes teaches associating an audio file with a financial record in a database. A record in a database can comprise of a variety of types of information including that of financial information as shown by Maes' system. A record is simply a complete set of information by definition. Since Mogenis teaches linking an audio file to a record in the database and it was well known in the art at the time of the invention for records to comprise a variety of "types of information" including financial information (as taught by Maes), it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the features of Maes and Mogenis to arrive at a system of storing an audio file with a record in a database to correlate the audio file with a client. Furthermore, Mogenis' system teaches a means for linking an audio file to a database record. While this may not be directed to a "financial" record, there is no reason why one of ordinary skill in the art would be limited

to only one type of record. Mogenis' system could be applied to any type of record without interfering with the purpose of associating and storing an audio file to a record.

Examiner further points out that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. As for "compatibility", the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Mogenis teaches associating an audio file with a record whereas Maes teaches linking an audio file with a *financial* record. Since Mogenis teaches linking an audio file to a record in the database and it was well known in the art at the time of the invention for records to comprise a variety of "types of information" including financial information (as taught by Maes), it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the features of Maes and Mogenis to arrive at a system of storing an audio file with a record in a database to correlate the audio file with a client. Furthermore, Mogenis' system teaches a means for linking an audio file to a database record. While this may not be directed to a

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"financial" record, there is no reason why one of ordinary skill in the art would be limited to only one type of record. Mogenis' system could be applied to any type of record without interfering with the purpose of associating and storing an audio file to a record.

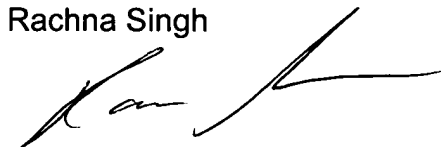
(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Rachna Singh



Conferees:



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